IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION.

CHAMBER SUMMONS NO.1386 of 2005
IN
NOTICE No.1102 of 1999
IN
EXECUTION APPLICATION No.55 of 1999
IN
SUMMARY SUIT No.2764 of 1994.

M/S.POL INDIA AGENCIES LTD. **Plaintiffs.**

V/s.

M/S.**NEW ENGINEERING WORKS**
AND ANOTHER. **Defendants.**

Mr. Bhavin Gada i/b. C.R. Naidu & Co.
for plaintiff.

Mr. Jaydeep Raut i/b. Prakash Chaudhary
for defendants.

CORAM:S.C.DHARMADHIKARI,J.

DATED: 19TH JULY, 2006.

P.C.:-

1] Heard Mr. Naidu appearing for the plaintiff/decree holder and Mr. Chaudhary appearing for the defendants.

2] Perused the application and the affidavit in support. All that Mr. Naidu invokes is general power to amend, conferred

upon this Court by Section 153 of the Civil Procedure Code to amend the existing Execution Application and include therein one of the property which is mentioned in the Schedule annexed to the Chamber Summons.

3] This request is opposed by Mr. Chaudhary on the ground that the application is belated because in the correspondence prior to this suit the present property is also mentioned. Secondly, the decree holder is aware that the judgment debtor does not have any right, title and interest in these premises/property. In my view, by merely permitting the decree holder to amend the Execution Application to include this property, does not mean that the contentions of the judgment debtor with regard to the right, title and interest therein, are in any manner, being adjudicated upon. This Court does not decide such issues and it would be open for the parties including the Judgment Debtor to raise all such contentions as are permissible in law, if in Execution, the decree holder proceeds in so far as this

property is concerned.

4] Leaving all such contentions of all parties open, the present Chamber Summons is made absolute in terms of prayer clause (a) and (b).

5] Amendment to be carried out within a period of two weeks from today.

[S.C. DHARMADHIKARI,J]